

DOCKET NO: NHHCV196009413S

SUPERIOR COURT

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION AKA FANNIE M  
V.HOUSING SESSION  
AT NEW HAVEN

WINN, CORA Et Al

10/3/2019

ORDERORDER REGARDING:  
09/26/2019 118.00 MOTION TO QUASH

The foregoing, having been considered by the Court, is hereby:

## ORDER:

This matter comes before the court on a hearing to address the defendants' Application for Audita Querela. This matter was heard before the court on October 1, 2019. Counsel for both parties appeared. The defendant's conservator (her son) also appeared.

Audita Querela is "a remedy granted in favor of one against whom execution has issued or is about to issue on a judgment, the enforcement of which would be contrary to justice." Housing Authority v. Melanson, 23 Conn. App. 519, FN1 (1990). "Audita Querela is a common law writ that may be granted when a defense to a judgment arises for the first time after the judgment has been rendered." Oakland Heights Mobile Park, Inc., v Simon, 40 Conn.App. 30, FN 1 (1995).

This matter involves a post foreclosure summary process action. A judgment of possession issued in favor of the plaintiff by court order (Cordani, J) on March 21, 2019. The court ordered a final stay to August 31, 2019. Thereafter, the plaintiff sought and received the execution (issued on September 3, 2019) which was served by way of a marshal and the lockout scheduled for September 27, 2019. The defendant's Application for Audita Querela was filed on September 26, 2019. The plaintiff filed a written objection.

At the October 1, 2019 hearing, both parties were heard.

The defendant through counsel, represented that the defendant, 88 years old, was in a dire medically infirm state with limited mobility and inability to move on her own. Counsel further represented the steps that had been taken post judgment to arrange for safe relocation of the defendant taking into account her significant medical challenges and the efforts working with social service agencies and facilities for placement and the positive steps made in that regard.

The plaintiff objected but did not dispute these representations. The plaintiff represented that the lockout had been cancelled, as appropriate, in light of the filing of the audita querela by the defendant. She represented that the execution was being returned to the court unsatisfied.

The defendant is seeking an additional six weeks to accomplish safely moving the defendant into a facility to meet her medical needs.

The court has carefully considered the defendant's Motion, the plaintiff's objection and the arguments of counsel presented. The defendant's Motion is GRANTED. Execution may not issue until after November 15, 2019.

Judicial Notice (JDNO) was sent regarding this order.

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Judge: CLAUDIA A BAIO

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